

05.21.01

CPA/1641\$

PTO/SB/29 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:

☐ DUPLICATE

Address to:

**Assistant Commissioner for Patents
Box CPA
Washington, DC 20231**

Attorney Docket No. of Prior Application	TORO 0101 PUS
First Named Inventor	Torossian
Examiner Name	S. Devis
Group Art Unit	1641
Express Mail Label No.	EL 851919871 US

RECEIVED

MAY 23 2001

TECH CENTER 1600/2

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d),
(continued prosecution application (CPA)) of prior application number 09 / 125,747,
filed on August 25, 1999, entitled Anti-Helicobacter Vaccine Complex

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☒ Enter the unentered amendment previously filed on _____
under 37 CFR 1.116 in the prior nonprovisional application.
2. ☒ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:

 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☒ PTO-1449
 - b. ☒ Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

05/22/2001 HMDHMM 00000054 09125747

01 FC:231

355.00 OP

wrong
 copy
 was
 mailed
 See
 Summary
 Page
 K33



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Handwritten: 5/30/01

In re application of:

Group Art Unit: 1641

Fernand Narbey Torossian

Examiner: S. Devis

Serial No.: 09/125,747

Filed: August 25, 1999

For: ANTI-HELICOBACTER VACCINE COMPLEX

Attorney Docket No.: TORO 0101 PUS

RECEIVED

MAY 23 2001

TECH CENTER 1600/2900

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on:

May 18, 2001
(Date of Deposit)

Harmon A. Hays
(Signature)

SUPPLEMENTAL AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This document supplements the Amendment dated April 20, 2001. The Examiner is requested to consider the April 20 Amendment together with these remarks.

First, as to the Torossian reference 08/387,322 with a filing date of January 30, 1995, listed in the Supplemental Information Disclosure Statement filed with the Patent Office on June 26, 2000, please be advised that there was a typographical error in the citation. The proper Serial Number for that reference is 08/347,322. Enclosed is another Supplemental IDS with the proper data, together with copies of the filing receipt. The named inventor Torossian is the same as the Applicant herein. Although a copy of the 08/347,322 application was submitted with the June 21, 2000 Information Disclosure

Statement (improperly labeled "08/387,322"), another copy is being submitted with the IDS.

Second, the Applicant has the following remarks and comments on the "Applicant's Arguments and Office's Response" as contained on pages 3-5 of the November 21, 2000, Office Action. With regard to the double effect (therapeutic and preventive), it is submitted that it is in error to consider that a vaccine has a preventive or therapeutic effect. Indeed, from the point of view of the patient, a vaccine is "administrated for the prevention, amelioration or treatment", because the patient is potentially suffering or is already suffering of a disease. From the point of view of the potentiality and property of a vaccine, it means that the vaccine by itself is able to prevent and to treat a certain disease when administrated to a group of patients. The definition of "vaccine" from the dictionary of *Dorland's Medical Dictionary* (page 1787, 28th Edition) is consistent with the Applicant's contention that "therapeutic complex" and "vaccine complex" are used with the same meaning.

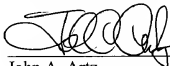
Concerning the other issues raised in the Official Action, the Applicant respectfully disagrees with the Examiner's comments. These will be addressed in more detail at a later date if required.

As the Examiner is aware, it is not necessary to have a complete understanding of the mechanism of action of the claimed complex, and it is not required under the patent application standards to provide such details. Consequently, the biological, biochemical and molecular mechanism of action of the claimed complex does not need to be established. The specification describes how to make and how to use the invention and provides an enabling disclosure for one skilled in the art to which it pertains.

Finally, the amendments to the claims in the June 26 response should not be construed as an acquiescence in the proprietary of the non-enablement rejection, but rather a reflection of Applicant's earnest desire to clarify the claimed invention to allow those skilled in the art to practice the invention.

The Examiner is requested to further examine claims 9-16 as submitted in the April 20, 2001, Amendment, and further consider the Remarks submitted by the Applicant in connection therewith, together with the comments contained therewith.

Respectfully submitted,



John A. Artz
Registration No. 25,824
28333 Telegraph Road, Suite 250
Southfield, Michigan 48034
Phone: (248) 223-9500
Fax: (248) 223-9522

Dated: May 18, 2001